

Craig S. Donohue
Chief Executive Officer

20 South Wacker Drive
Chicago, IL 60606-7499
www.cme.com

312/930.8275 tel
312/930.3209 fax

April 13, 2005

VIA ELECTRONIC DELIVERY

Jean A. Webb
Secretary to the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Phase II of the Global Clearing Link Between Eurex Clearing and The Clearing Corporation

Dear Ms. Webb:

The Chicago Mercantile Exchange Inc. ("CME") welcomes the opportunity to comment upon Phase II of the Global Clearing Link (the "Link") between Eurex Clearing AG ("Eurex Clearing") and The Clearing Corporation ("CCorp"). CME is currently the largest futures exchange in the United States. As an international marketplace, CME brings together buyers and sellers on its CME Globex[®] electronic trading platform and trading floors. CME offers futures and options on futures primarily in four product areas: interest rates, stock indexes, foreign exchange and commodities. CME is also the largest derivatives clearing organization in the world. In 2004, the CME Clearing House cleared more than 1,386 billion contracts, which represents 90% of all futures and options contracts traded on U.S. designated contract markets. While maintaining an average of \$40 billion of performance bond collateral, we move \$1.5 billion to \$3 billion in daily settlement variation payments among market participants. We believe that CME's substantial experience and leadership in clearing and risk management will benefit both the Commission and industry participants with respect to the proposed Link.

In Phase II of the Link, Eurex Clearing and CCorp propose to permit a trader executing transactions on the U.S. Futures Exchange, LLC ("Eurex U.S.") to have its positions carried by a member of Eurex Clearing rather than by a CCorp member. CCorp represents that it will clear all trades as the designated clearing organization ("DCO") to Eurex U.S. In order to implement the Link, Eurex Clearing has become a "special clearing member" of CCorp and has established an omnibus account at CCorp to hold trades and effect daily margin settlements and deliveries. Eurex Clearing intends to perform various clearing-related services for CCorp in connection with the operation of the Link.

While CME does not object to the general notion of cross-border clearing, CME is concerned about two aspects of the proposal. First, CME believes that the members of Eurex

Clearing should be required to register as futures commission merchants ("FCMs") under the Commodity Exchange Act (the "Act").

We understand that Eurex Clearing intends to permit members of Eurex Clearing that qualify as appropriate segregated depositories under CFTC Regulation 1.49 to carry positions executed on Eurex U.S. To our knowledge, however, the Commission has not previously permitted foreign-based intermediaries that are not registered as FCMs to carry positions executed on a U.S. designated contract market without involving a registered FCM intermediary. Indeed, the Commission has previously required foreign-based intermediaries to either register as an FCM or establish an omnibus account with a registered FCM. Moreover, while Eurex Clearing and CCorp attempt to compare the Link to CME's arrangement with the MEFF Sociedad Rectora de Productos Financieros Derivados de Renta Variable ("MEFF"), the two scenarios are fundamentally different because the clearing members of MEFF agreed to carry only foreign positions—not U.S. positions subject to the Commission's jurisdiction, as would be the case with respect to the positions held pursuant to Phase II of the Link. We thus believe that the Commission should require any members of Eurex Clearing that desire to carry U.S. positions to register as FCMs or establish an omnibus account with a registered FCM, in which case the foreign intermediaries would properly become subject to the Commission's jurisdiction and the Commission would have clear authority to ensure the safety and soundness of the clearing system.

Second, CME believes that Eurex Clearing should be required to register as a DCO because Eurex Clearing intends to perform significant clearing-related functions on behalf of CCorp. with respect to transactions executed on Eurex U.S., a designated contract market. Under Section 1a(9) of the Act, a DCO is defined to include any entity that, "with respect to an agreement, contract, or transaction—(i) enables each party . . . to substitute, through novation or otherwise, the credit of the derivatives clearing organization for the credit of the parties; (ii) arranges . . . for the settlement or netting of obligations. . . ; or (ii) otherwise provides clearing services or arrangements that mutualize or transfer among participants in the derivatives clearing organization the credit risk arising from such agreements. . . ." Under Section 5b of the Act, any entity that performs any of these services is required to register as a DCO.

According to Eurex Clearing's and CCorp's documentation, CCorp intends to outsource to Eurex Clearing numerous operational aspects that relate to the clearing function. The outsourced services include such important services as: 1) the payment, calculation, collection and valuation of original margin; 2) the processing of variation settlements; 3) the exercise and assignment process for options; 3) intra-day trade loss monitoring; and 4) general position monitoring. (See Letter from Kenneth M. Rosenzweig to James L. Carley and Richard A. Shilts, March 14, 2005; Link Clearing Agreement, Section 3(h); and Chapter 9B of the CCorp Rules.)

From our perspective, the nature of these services constitute clearing-related services, the provision of which should require registration as a DCO. Absent registration, Eurex Clearing will not be required to demonstrate compliance with the comprehensive set of Core Principles set forth in the Act, which ensure that a clearing entity possesses the necessary standards, systems, procedures and resources to safely clear products. Moreover, because Eurex Clearing intends to perform these services with respect to transactions executed in the U.S.—transactions over which the Commission has jurisdiction—we do not believe that a non-

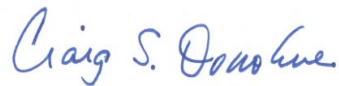
Ms. Jean Webb
April 13, 2005
Page 3

registered entity, such as Eurex Clearing, that performs a critical role in clearing the transactions should be exempt from the Act's DCO requirements.

Conclusion

If you have any questions or comments, please do not hesitate to contact me, Kimberly S. Taylor, President and Managing Director, CME Clearing House, at (312) 930-3156, or Matthew F. Kluchenek, Director and Associate General Counsel, at (312) 338-2861.

Sincerely,



Craig S. Donohue